



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS AIR FORCE MATERIEL COMMAND
WRIGHT-PATTERSON AIR FORCE BASE, OHIO

PKO1 64-10
FAR 5.101
5.203

B6 13.98

3 Aug 98

MEMORANDUM FOR SEE DISTRIBUTION

FROM: HQ AFMC/PKP
4375 Chidlaw Road, Suite 6
Wright-Patterson AFB OH 45433-5006

SUBJECT: Posting Solicitations to the Internet (HQ AFMC/PK Memo, 18 May 98) (attached)


1. Reference subject memo paragraph 3a, where we discussed posting solicitations on the Internet. We want to advise each of you of a recent ruling in the U.S. Court of Federal Claims (FN Manufacturing, Inc., vs. United States, U.S. FedCI, No 98-447C, 6/30/98), involving the posting of synopsis notices on the Internet for solicitations in excess of \$100K.

2. While we are not aware of any cases or situations like this in our command, this is an advisory notice. The bottom line is as follows:

For procurements in excess of \$100K federal regulations do not permit Internet posting of synopsis notices to substitute for printed publications.

The 45-day period provided in Note 22 should be measured from the date the hard copy notice was published and not from the date of the Internet posting.

3. Our action officer for this effort is Ms. Yolanda L. Earley, HQ AFMC/PKPA, DSN 787-6055, E-mail earleyvl@wpgate1.wpafb.af.mil.


AVERY P. SLEDGE, JR., Col, USAF
Chief, Contracting Policy Branch
Directorate of Contracting

E-mail message from Yolanda EARLEY
HQ AFMC/PKPA attached.

ch 98-6A (FAR 5) Post to FAR 5.101 and 5.203 by circling the reference and noting in the margin:
"See 64-10, Atch 98-6A filed at FAR 5." Then file the Atch behind the sups to FAR 5.

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Owner

DATE IN. 8-11-98
DATE OUT. 8-12-98



66 9.98

FAR 4.5
FAR 5.203

18 MAY 1998

JS
Richard
28 May 98
CWE

Phil

FRANK

MEMORANDUM FOR SEE DISTRIBUTION

FROM: HQ AFMC/PK
4375 Chidlaw Road, Suite 6
Wright-Patterson AFB OH 45433-5006

SUBJECT: Posting Solicitations to the Internet

1. The Federal Government has committed itself to transition its acquisition processes away from paper toward electronic conduct of business. An example is the FY98 Defense Authorization Act (Pub.L. 105-85), wherein Congress presented us an opportunity to improve the support we provide to the warfighter through reduced cycle times. Effective 25 May 98, we may dispense with the synopsis waiting time for certain actions under the simplified acquisition threshold. These are actions for which we have enabled electronic industry access to the solicitation through a single, Government-wide point of entry and have permitted electronic responses from industry. In order to take advantage of this opportunity, we believe our contracting offices must accomplish the following:

a. We must post solicitations to the Internet. Most of our contracting offices have already established business opportunity pages, and many solicitations are already being posted. We must now take action to maximize use of these pages.

b. We must link posted solicitations through CBDNet synopsis notices to promote use of a single electronic entry point. CBDNet includes a field to specify the URL for a web site hosting the solicitation. The URL in a specific notice should facilitate easy access to the relevant solicitation. For example, citing an organization home page, or even the overall business opportunity page, would probably not be sufficient to promote reasonably easy access, unless the page includes a search capability to take the user directly to the solicitation. Better approaches would be a link to the page containing all documents applicable only to that solicitation, or to a consolidated index page linking to the solicitation pages.

c. We must allow contractors to respond to solicitations electronically. Pub.L. 105-85 identifies such techniques as e-mail, web technology, bulletin boards, and electronic data interchange within the definition of electronic commerce. However, buyers must make potential offerors aware of security risks when unsecure techniques such as e-mail are employed.

2. AFMC centers have undertaken a variety of local initiatives believed to be best suited to their needs. SA-ALC and WR-ALC deserve special mention for their initiatives in posting simplified acquisitions. (Visit their web pages at www.kelly-arb.org/links/proc/index.html and

pkec.robins.af.mil.) Both approaches address the three aspects listed above, posturing those centers to realize reduced cycle times. We encourage other centers to review the efforts of those two centers for possible application to their own situations.

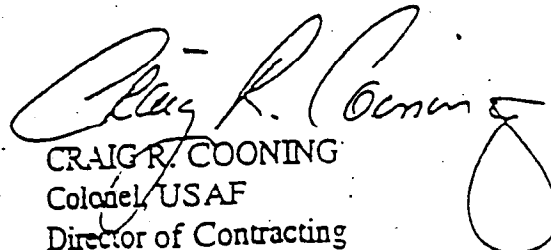
3. While we recognize the importance of discretion being exercised by individual centers, we must all be mindful of the need to follow some overarching strategy on the road toward a paper-free contracting environment. My staff is working with SAF/AQCI to lay out that strategy, and we will be soliciting your input in the near future. We believe the business opportunity pages and CBDNet will continue to play significant roles. Therefore, we are setting the following goals for solicitations that would otherwise be issued by paper media:

a. Within 30 days from the date of this memo, each center should implement a procedure for posting solicitations for all acquisitions estimated to exceed \$100,000. This requirement is not intended to authorize release of any information or documents (e.g., restricted access drawings) without following the appropriate procedures for such release.

b. Within 90 days from the date of this memo, each center should expand the procedure to include all acquisitions estimated to exceed \$25,000.

c. In conjunction with solicitation posting, contracting personnel should ensure an active URL is included in synopsis notices. Pending update of the ACPS synopsis script to include a separate URL field, personnel using ACPS to prepare notices should identify the URL in the "description" field.

4. Our future strategy will address actions below the synopsis threshold, but centers are not discouraged from including those actions in their business opportunity pages now. We are already reporting our level of electronic commerce to OSD, and we expect to collect specific data on solicitation posting and synopsis linking very soon; therefore, we request aggressive implementation of the contents of this memo at every center. The AFMC contracting community must do its part to exploit opportunities that will enable us to achieve a paperless environment. Our staff is available to assist you as necessary. Please inform us of any impediments to your efforts, and provide the identity of your focal point so we can share any lessons learned. Our action officers for this effort are Ms. Yolanda Earley, HQ AFMC/PKPA, DSN 787-6055, e-mail earleyyl@wpgate1.wpafb.af.mil (policy issues) and Mr. Tony Baumann, HQ AFMC/PKS, DSN 787-2466, e-mail baumana@wpgate1.wpafb.af.mil (functional issues).


CRAIG R. COONING
Colonel, USAF
Director of Contracting

cc: SAF/AQC

E-MAIL MESSAGE DATED 11 Sep 98 FROM YOLANDA EARLEY, PROCUREMENT ANALYST, HQ-AFMC/PKPA, DSN 787-6055

SUBJECT: Synopsis Response Time, HQ-AFMC/PKPA message, 11 Sep 98

Content of subject message is provided below:

"Recent questions raised by center field personnel show a need to clarify the amount of time that must be allowed before a contract can be awarded, considering both synopsis waiting periods and solicitation response times. Confusion appears to be related to recent memos concerning Posting Solicitations to the Internet (AFMC/PK, 18 May 98, and AFMC/PKP, 3 Aug 98). Both memos can be found on the AFMC/PKP home page.

The guidance in this e-mail deals with TYPICAL acquisitions. FAR Part 5 also includes separate guidance for A&E, R&D, and commercial actions, so be sure you read the applicable sections if you are working with these type actions.

I hope this message will help clear any gray areas that may exist as a result of the two previous messages on this subject. If you have any additional questions please call me at DSN: 787-6055 or e-mail at earleyyl@wpgatel.wpafb.af.mil."

RELEVANT REGULATORY GUIDANCE (paraphrased)

1. FAR 5.203(a): A notice of contract action shall be published in the Commerce Business Daily at least 15 days before issuance of a solicitation. This applies to actions expected to exceed \$25K (FAR 5.101(a)(1)).
2. FAR 5.203(b): The contracting officer shall establish a solicitation response time which will afford potential offerors a reasonable opportunity to respond to each contract action estimated to be greater than \$25K, but not greater than the simplified acquisition threshold. The contracting officer should consider the circumstances of the individual acquisition, such as the complexity, commercially, availability, and urgency, when establishing the solicitation response time.
3. FAR 5.203(c): Agencies shall allow at least a 30-day response time for receipt of bids or proposals from the date of issuance of a solicitation, if the contract action is expected to exceed the simplified acquisition threshold.

EMERGING REALITIES OF THE BUSINESS ENVIRONMENT

1. Sec. 850 of Pub. L. 105-85 provides an exception to synopsis for acquisitions not greater than the simplified acquisition threshold. The acquisition is exempt from synopsis if it is conducted by (a) "using widespread electronic public notice of the solicitation in a form that allows convenient and universal user access through a single, Government-wide point of entry" AND (b) "permitting the public to respond to the solicitation electronically." We have interpreted that you can utilize this exception if you place a notice of the proposed acquisition in the CBD, include in the notice a website address for accessing the solicitation electronically, and permit electronic responses such as e-mail, fax, etc. Even though you are, in fact, "synopsizing" the requirement by placing it in the CBD, you are not required to wait the 15 days specified in FAR. The CBD is simply being used as a generally accepted Government-wide point of entry.

2. The 15-day waiting period refers to time required before you can issue your solicitation, attempting to give all prospective offerors a relatively equal amount of time to prepare and submit responses. Technological advances now enable us to keep that same level playing field with electronic release of the solicitation, where all prospective offerors have the same opportunity to access the solicitation. Therefore, we can post the solicitation anytime, even prior to the end of the 15-day period, though the 15 days must remain in our acquisition leadtime. In fact, we are encouraged to post the solicitation simultaneously with posting of the synopsis notice so we can effectively utilize the CBD feature of linking to the solicitation.
3. A recent court ruling (see 3 Aug 98 PKP memo) has interpreted that waiting periods do not begin until the synopsis notice is published in the printed copy of the CBD. All of us should be submitting our synopses electronically through CBDNet. According to GPO, while an electronic notice is posted to CBDNet instantaneously, the notice appears in print 2-3 business days later. For your information, the CBD is published six days each week; therefore, a notice posted Monday would be printed NLT Thursday, while a notice posted Friday would be printed NLT Tuesday. You can check your CBDNet postings at cbdnet.access.gpo.gov, and you can check printed CBD postings at www.ld.com.
4. "Reasonable opportunity to respond" does not mean any specific number of days; rather, it is your judgment call as to how much time is needed to enable contractors to submit offers. More complex requirements would deserve more time than simpler requirements. For simplified acquisitions, some buying offices are setting the receipt date at 16 days after issuance of the synopsis WHEN they also issue the solicitation simultaneously in electronic format. Typical FACNET solicitations allowed 10 days as a reasonable opportunity to respond. Where synopsis is exempt, you might determine any number of days (5, 10, and 20, even 30) to be necessary for reasonable opportunity.

THE BOTTOM LINE

Here are some suggested timelines you might observe. You could adjust the timelines based on actual knowledge/verification of the notice appearing in the CBD. For notices submitted Thursday or Friday, you might have to add a day.

1. SAT actions

a. Where synopsis is required

Day 1 - submits synopsis to CBDNet; may post solicitation

Day 4 - notice printed in CBD

Day 18 - 15-day waiting period expires

Day 19 - issue written solicitation; earliest quote receipt date if electronically solicited

Day ?? - Quote receipt date for written solicitations (reasonable opportunity - no minimum - your call)

Day 20, or Day ?? + 1 - probable earliest award date

b. Where synopsis is exempt

Day 1 - submits notice to CBDNet; post solicitation

Day ?? - Quote receipt date (reasonable opportunity - no minimum/your call - electronic response authorized)

Day ?? + 1 - probable earliest award date

2. Actions exceeding SAT

Day 1 - submits notice to CBDNet; may post solicitation

Day 4 - notice printed in CBD

Day 18 - 15-day waiting period expires

Day 19 - solicitation issuance date

Day 49 - earliest proposal receipt closing date

Day 50 - probable earliest award date

Remember: slightly different rules for A&E, R&D, and commercial items. For example, for commercial items up to \$5M, you can use a combined solicitation/synopsis (this lessens your time when the action exceeds the SAT).

HQ AFMC/PK memos, 18 May 98 and 3 Aug 98 are attached.